

105TH CONGRESS  
1ST SESSION

# S. 472

To provide for referenda in which the residents of Puerto Rico may express democratically their preferences regarding the political status of the territory, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 19, 1997

Mr. CRAIG (for himself, Mr. GRAHAM, Mr. D'AMATO, Mr. TORRICELLI, Mr. AKAKA, Mr. MACK, Mr. ALLARD, Mr. THOMAS, Mr. REID, Mr. BREAUX, and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To provide for referenda in which the residents of Puerto Rico may express democratically their preferences regarding the political status of the territory, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. FINDINGS.**

4 Congress finds that—

5 (1) the United States exercises sovereignty over  
6 Puerto Rico pursuant to the Treaty of Paris pro-  
7 claimed by President McKinley on April 11, 1899

1 (30 Stat. 1754), article IX of which established that  
2 residents of the territory not owing allegiance to an-  
3 other nation would have United States nationality  
4 and provided that the “civil rights and political sta-  
5 tus of the native inhabitants” of Puerto Rico “shall  
6 be determined by the Congress”;

7 (2) Congress carries out all Federal responsibil-  
8 ities with respect to Puerto Rico, including those set  
9 forth in article IX of the Treaty of Paris, pursuant  
10 to clause 2 of section 3 of article IV of the Constitu-  
11 tion (commonly known as the “territorial clause”),  
12 which provides that “Congress shall have Power to  
13 dispose of and make all needful Rules and Regula-  
14 tions respecting the Territory or other Property be-  
15 longing to the United States”;

16 (3) in the Act of March 2, 1917 (39 Stat. 951,  
17 chapter 145), Congress carried out its responsibility  
18 under article IX of the Treaty of Paris by providing  
19 for civil administration of Puerto Rico and declared  
20 that, by virtue of that Act, the inhabitants of Puerto  
21 Rico shall be citizens of the United States, with such  
22 civil rights and political status as Congress deter-  
23 mined to be consistent with birth or residence in an  
24 unincorporated territory rather than a State of the  
25 Union;

(4) in the Act of July 3, 1950 (64 Stat. 319, chapter 446), Congress further implemented article IX of the Treaty of Paris by authorizing the residents of Puerto Rico to adopt a constitution, which was implemented in 1952 after acceptance by Puerto Rico of certain amendments made by Congress in approving the territorial constitution, thereby establishing the current commonwealth structure for local self-government in respect of internal affairs and local government administration, subject to the Constitution of the United States and other Federal law applicable to Puerto Rico; and

(5) the United States, consistent with its constitutional process, is committed to respecting the principle of self-determination in implementing any Federal measures that would provide for or make possible a transition of government from the current territorial status of commonwealth to a permanent and fully self-governing political status for Puerto Rico.

**SEC. 2. REFERENDA.**

(a) POLICY OF THE UNITED STATES.—

(1) IN GENERAL.—It is the policy of the United States that, as long as Puerto Rico remains subject to the plenary power of Congress under the terri-

1        torial clause, the residents of Puerto Rico periodi-  
 2        cally should be afforded an opportunity freely to ex-  
 3        press their wishes regarding the future political sta-  
 4        tus of Puerto Rico.

5            (2) OPTIONS.—The self-determination process  
 6        for Puerto Rico should enable the residents of Puer-  
 7        to Rico to express a preference to—

8            (A) preserve the current political status of  
 9        Puerto Rico; or

10          (B) choose to seek, in accordance with a  
 11        process approved by Congress and the residents  
 12        of Puerto Rico—

13            (i) admission as a State of the Union  
 14        on the basis of full equality; or

15            (ii) withdrawal of United States sov-  
 16        ereignty and nationality in favor of sepa-  
 17        rate sovereignty and nationality for Puerto  
 18        Rico and a relationship with the United  
 19        States consistent with independence or free  
 20        association.

21          (b) REQUIREMENTS.—A referendum under this  
 22        Act—

23            (1) shall be conducted among persons in Puerto  
 24        Rico who have the nationality and citizenship of the  
 25        United States and meet other applicable residency

1 and voter eligibility requirements under Federal or  
 2 territorial law; and

3 (2) shall be conducted by the duly constituted  
 4 authorities of the Commonwealth of Puerto Rico in  
 5 accordance with applicable provisions of the elections  
 6 law of Puerto Rico and other applicable Federal and  
 7 territorial law, consistent with this Act.

8 (c) REFERENDUM BY THE END OF 1998.—A referen-  
 9 dum under this Act shall be conducted not later than De-  
 10 cember 31, 1998.

11 (d) FORMAT OF REFERENDUM BALLOT.—A referen-  
 12 dum ballot shall instruct a voter to approve 1 of 3 options  
 13 presented in a side-by-side format on the ballot, as follows:

14 “Instructions: Mark 1 of the following status options  
 15 for Puerto Rico. A ballot with more than 1 option marked  
 16 will not be counted.

17 “OPTION A.—COMMONWEALTH.—If you agree,  
 18 mark here: \_\_\_\_.

19 “Puerto Rico should continue its current status, in  
 20 which—

21 “(1) Puerto Rico continues the current com-  
 22 monwealth structure for self-government with re-  
 23 spect to internal affairs and administration;

1           “(2) provisions of the Constitution and other  
2 laws of the United States apply to Puerto Rico as  
3 determined by Congress;

4           “(3) Puerto Rico remains a locally self-govern-  
5 ing unincorporated territory of the United States;

6           “(4) continuation or modification of current  
7 Federal law and policy applicable to Puerto Rico re-  
8 mains within the discretion of Congress under the  
9 territorial clause of the Constitution of the United  
10 States; and

11          “(5) the ultimate status of Puerto Rico will be  
12 determined through a process authorized by Con-  
13 gress that includes self-determination by the people  
14 of Puerto Rico in periodic referenda.

15          “OPTION B.—SEPARATE SOVEREIGNTY.—If  
16 you agree, mark here: \_\_\_\_.

17          “Puerto Rico should become fully self-governing  
18 through separate sovereignty leading to independence or  
19 free association, in which—

20           “(1) Puerto Rico is a sovereign nation with full  
21 authority and responsibility for its internal affairs  
22 and has the capacity to exercise in its own name and  
23 right the powers of government with respect to its  
24 territory and population;

1           “(2) relations between the United States and  
2       Puerto Rico are maintained under a negotiated gov-  
3       ernment-to-government treaty of friendship, or bilat-  
4       eral pact of free association terminable at will by ei-  
5       ther government, providing for cooperation and as-  
6       sistance in matters of shared interest as agreed on  
7       by Puerto Rico and the United States in accordance  
8       with their respective constitutional processes;

9           “(3) a constitution democratically instituted by  
10      the people of Puerto Rico, establishing a republican  
11      form of government and securing the rights of citi-  
12      zens of the Puerto Rican nation, is the supreme law,  
13      and the Constitution and other laws of the United  
14      States no longer apply in Puerto Rico;

15          “(4)(A) the people of Puerto Rico owe alle-  
16      giance to the sovereign nation of Puerto Rico and  
17      have the nationality and citizenship of Puerto Rico;

18          “(B) United States sovereignty, nationality, and  
19      citizenship in Puerto Rico are ended; and

20          “(C) birth in Puerto Rico or relationship to a  
21      person with statutory United States citizenship by  
22      virtue of birth in Puerto Rico is not a basis for  
23      United States nationality or citizenship;

24          “(5) a person who acquired United States citi-  
25      zenship by virtue of birth in Puerto Rico at a time

1       when Puerto Rico was a territory of the United  
 2       States has a statutory right to retain that status for  
 3       life, by entitlement or election as provided by Con-  
 4       gress, based on allegiance to the United States, ex-  
 5       cept that no person who has or maintains allegiance,  
 6       nationality, or citizenship rights with respect to any  
 7       sovereign nation other than the United States shall  
 8       have that statutory right; and

9               “(6) diplomatic relations, trade relations, and  
 10       government-to-government assistance shall be based  
 11       on treaty, and property rights and acquired rights  
 12       vested by employment under the laws of Puerto Rico  
 13       or the United States shall be honored, adjusted, and  
 14       settled in accordance with agreements implementing  
 15       the separation of sovereignty.

16       “OPTION C.—STATEHOOD.—If you agree, mark  
 17       here: \_\_\_\_.

18       “Puerto Rico should become fully self-governing  
 19       through United States sovereignty leading to statehood,  
 20       in which—

21               “(1) the people of Puerto Rico are fully self-  
 22       governing with their rights secured under the Con-  
 23       stitution of the United States, which is the supreme  
 24       law and has the same force and effect as in the  
 25       other States of the United States;



1           “(2) the sovereign State of Puerto Rico is in  
 2           permanent union with the United States, and powers  
 3           not delegated to the Federal Government or prohib-  
 4           ited to the States by the Constitution of the United  
 5           States are reserved to the people of Puerto Rico or  
 6           the State government;

7           “(3) United States nationality and citizenship  
 8           of a person born in Puerto Rico is guaranteed, pro-  
 9           tected, and secured in the same way as for all  
 10          United States citizens born in the other States;

11          “(4) residents of Puerto Rico have equal rights,  
 12          benefits, duties, and responsibilities of citizenship as  
 13          residents of the other States;

14          “(5) Puerto Rico is represented by 2 members  
 15          in the United States Senate and in the United  
 16          States House of Representatives proportionately to  
 17          the population; and

18          “(6) United States citizens in Puerto Rico are  
 19          enfranchised to vote in elections for the President  
 20          and Vice President of the United States.”.

21 **SEC. 3. IMPLEMENTATION.**

22          (a) CERTIFICATION OF RESULTS OF REFEREN-  
 23          DUM.—The Government of Puerto Rico shall certify to the  
 24          President and Congress the results of a referendum under

1 this Act. On certification of the results, subsection (b) or  
 2 (c), as appropriate, shall apply.

3 (b) APPROVAL OF CURRENT STATUS OR REJECTION  
 4 OF TERMS FOR IMPLEMENTATION OF A NEW STATUS.—  
 5 If a majority of the voters in a referendum under this Act  
 6 approves continuation of the unincorporated status and  
 7 commonwealth structure for local self-government, or on  
 8 rejection of a transition plan or implementation of a new  
 9 status in accordance with this Act, unless otherwise pro-  
 10 vided by Congress—

11 (1) the unincorporated status and common-  
 12 wealth structure for local self-government shall con-  
 13 tinue; and

14 (2) to ensure that the principle of self-deter-  
 15 mination is respected and that the residents of Puer-  
 16 to Rico are afforded the opportunity freely to ex-  
 17 press their wishes with respect to resolution of the  
 18 status of Puerto Rico based on the options for per-  
 19 manent self-government described in section 2, a ref-  
 20 erendum on the future political status of Puerto  
 21 Rico shall be held in accordance with this Act every  
 22 4 years thereafter, but not on or within 180 cal-  
 23 endar days before or after the date of a general elec-  
 24 tion.

1       (c) APPROVAL OF SEPARATE SOVEREIGNTY OR IN-  
2 CORPORATION LEADING TO STATEHOOD.—

3           (1) TRANSITION PLAN.—

4               (A) PROPOSAL.—If a majority of the vot-  
5 ers in a referendum under this Act approve full  
6 self-government through separate sovereignty or  
7 incorporation leading to statehood, not later  
8 than 180 days after the date of the referendum,  
9 the President shall transmit to Congress a pro-  
10 posal for legislation to enact a transition plan.

11            (B) TRANSITION PERIOD.—Unless Con-  
12 gress provides a longer period, a transition plan  
13 shall provide for a transition period of not to  
14 exceed 10 years.

15            (C) CONTENTS.—A transition plan shall  
16 prescribe the terms and criteria the fulfillment  
17 of which will provide the basis for instituting  
18 full self-government for Puerto Rico consistent  
19 with separate sovereignty or incorporation lead-  
20 ing to statehood, as the case may be.

21           (2) REFERENDUM ON TRANSITION PLAN.—

22               (A) INITIAL APPROVAL.—Not later than  
23 180 days after the date of enactment of an Act  
24 establishing a transition plan under paragraph  
25 (1), a referendum shall be conducted in which

1 the qualified residents of Puerto Rico vote to  
 2 approve or disapprove the transition plan.

3 (B) APPROVAL OF FINAL IMPLEMENTA-  
 4 TION.—Before the expiration of the transition  
 5 period set forth in the transition plan, a ref-  
 6 erendum shall be conducted in which the quali-  
 7 fied residents of Puerto Rico vote to approve or  
 8 disapprove final implementation of the new sta-  
 9 tus of Puerto Rico, as established in accordance  
 10 with this Act.

11 **SEC. 4. AVAILABILITY OF FUNDS FOR THE REFERENDA.**

12 (a) IN GENERAL.—

13 (1) AVAILABILITY OF AMOUNTS DERIVED FROM  
 14 TAX ON FOREIGN RUM.—During the period begin-  
 15 ning on October 1, 1997, and ending on the date on  
 16 which the President determines that all referenda re-  
 17 quired by this Act have been held, from the amounts  
 18 covered into the treasury of Puerto Rico under sec-  
 19 tion 7652(e)(1) of the Internal Revenue Code of  
 20 1986, the Secretary of the Treasury—

21 (A) upon request and in the amounts iden-  
 22 tified from time to time by the President, shall  
 23 make the amounts so identified available to the  
 24 treasury of Puerto Rico for the purposes speci-  
 25 fied in subsection (b); and

1 (B) shall transfer all remaining amounts to  
 2 the treasury of Puerto Rico in accordance with  
 3 law in effect on the date of enactment of this  
 4 Act.

5 (2) REPORT OF REFERENDA EXPENDITURES.—  
 6 Not later than 180 days after each referendum  
 7 under this Act, and after the end of the period speci-  
 8 fied in paragraph (1), the President, in consultation  
 9 with the government of Puerto Rico, shall submit a  
 10 report to Congress on the amounts made available  
 11 under paragraph (1)(A) and all other amounts ex-  
 12 pended by the State Elections Commission of Puerto  
 13 Rico for referenda under this Act.

14 (b) GRANTS FOR CONDUCTING REFERENDA AND  
 15 VOTER EDUCATION.—

16 (1) IN GENERAL.—From amounts made avail-  
 17 able under subsection (a)(1), the Government of  
 18 Puerto Rico shall make grants to the State Elections  
 19 Commission of Puerto Rico for referenda under this  
 20 Act, as follows:

21 (A) 50 percent shall be available only for  
 22 the costs of conducting the referenda.

23 (B) 50 percent shall be available only for  
 24 voter education funds for the central ruling  
 25 body of the political party, parties, or other

1           qualifying entities advocating a particular ballot  
2           choice.

3           (2) ALLOCATION AMONG ADVOCATES.—The  
4           amount allocated for advocating ballot choices under  
5           this paragraph (1)(B) shall be apportioned equally  
6           among the parties advocating the respective ballot  
7           choices.

8           (c) ADDITIONAL RESOURCES.—In addition to  
9           amounts made available under this Act, the legislature of  
10          Puerto Rico may allocate additional resources for adminis-  
11          trative and voter education costs to each party so long as  
12          the distribution of funds is consistent with the apportion-  
13          ment requirements of subsection (b)(2).

○